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MDL 1570 PLAINTIFFS' EXECUTIVE COMM

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

Plaintiffs' Executive Committee for Personal Injury and Death Claims	Plaintiffs' Executive Committee for Commercial Claims
Ronald L. Motley (1944-2013) Jodi Westbrook Flowers / Donald A. Migliori, <i>Co-Chairs</i> MOTLEY RICE LLC James P. Kreindler, <i>Co-Chair</i> KREINDLER & KREINDLER LLP	Stephen A. Cozen, <i>Co-Chair</i> Sean Carter, <i>Co-Chair</i> COZEN O'CONNOR
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VIA ECF

June 14, 2019

The Honorable Sarah Netburn, U.S. Magistrate Judge
 United States District Court for the S.D.N.Y.
 Thurgood Marshall U.S. Courthouse, Room 430
 40 Foley Square
 New York, NY 10007

Re: *In Re: Terrorist Attacks on September 11, 2001, 03 MDL 1570 (GBD) (SN)*

Dear Judge Netburn:

The Plaintiffs' Executive Committees (PECs), on behalf of all plaintiffs, write to comply with the Court's order of June 7, 2019 (ECF No. 4580), wherein Your Honor directed the parties to "file a letter regarding the status of Saudi Arabia's request as page five of its emergency motion to compel no later than Friday, June 14, 2019." In Saudi Arabia's emergency motion (ECF No. 4572), Saudi Arabia requested that, "going forward, the Court order Plaintiffs to provide Saudi Arabia with prior notice and copies under Rule 45(a)(4) of all Rule 45 subpoenas issued to any third party, regardless of whether those subpoenas are served formally, sent with an informal request to accept service, or otherwise negotiated."

Although plaintiffs believe Saudi Arabia's proposal goes beyond the requirements of the Federal Rules, plaintiffs are amenable to providing Saudi Arabia with "prior notice and copies under Rule 45(a)(4) of all Rule 45 subpoenas issued to any third party, regardless of whether those subpoenas are served formally, sent with an informal request to accept service, or otherwise negotiated."

To place this issue in full context and clarify the record, the PECs further advise the Court of the following facts. To date, the PECs have served multiple subpoenas¹ regarding, *inter alia*,

¹ The PECs have provided pre-service notice and served subpoenas on the following entities, for jurisdictional discovery concerning Saudi Arabia: the Al-Rribat Al-Islami mosque; Bank of America; Case Western Reserve; DMV, Sacramento, CA; George Washington University; Islamic Center of San Diego; Keller Graduate School (DeVry University); King Fahd Mosque a/k/a Islamic Foundation of Sheikh Tayymiah; Omar Ibn al Khattab Mosque, San Diego State University and San Diego State University Research Center; University of California, Los Angeles (UCLA); United States

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jurisdictional discovery concerning Saudi Arabia, and in each instance, counsel for Saudi Arabia received pre-service notice pursuant to FRCP 45(a)(4) and copies of the documents produced. The circumstances regarding the supplemental voluntary production of documents by the King Fahd Mosque were *sui generis*, as the PECs have explained. The PECs remain puzzled by the circumstances surrounding the King Fahad Mosque's "objection" to producing documents to the Kingdom and its sudden withdrawal, but plaintiffs reiterate that they had no objection to sharing the KFM documents with Saudi Arabia at any time, and in fact thought the KFM was producing them directly.

A draft of this letter was provided to counsel for Saudi Arabia before being filed, and counsel for Saudi Arabia agreed that the commitment made in the second paragraph satisfies the outstanding request for relief in Saudi Arabia's motion to compel.

Respectfully submitted,

COZEN O'CONNOR

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For the Plaintiffs' Exec. Committees

Given the parties' letter, any outstanding request for relief in Saudi Arabia's June 6 motion to compel is moot. The Court therefore respectfully directs the Clerk of the Court to terminate the motion at ECF No. 4572.

SO ORDERED.

June 17, 2019
New York, New York


SARAH NETBURN
United States Magistrate Judge